

# EXHIBIT A

NO. 11CM18000912

JOSÉ HERNANDEZ,  
Plaintiff

VS.

ENHANCED RECOVERY  
CORPORATION, LLC,  
Defendant

IN THE JUSTICE COURT

PRECINCT NO. 1

TRAVIS COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW PLAINTIFF José Hernandez ("Hernandez"), and files this, his Original Petition, complaining of DEFENDANT Enhanced Recovery Corporation, LLC, ("ERC"), and for causes of action would respectfully show this Honorable Court the following:

**PARTIES**

Plaintiff José Hernandez is a resident of Travis County, Texas;

Defendant Enhanced Recovery Corporation, LLC is a foreign corporation domiciled in Florida, and who may be served by certified mail to its registered agent, C T CORPORATION SYSTEM, 1200 SOUTH PINE ISLAND ROAD, PLANTATION, FL 33324.

**VENUE AND JURISDICTION**

1. Venue is proper in this Court because Travis County, Texas is where events giving rise to Hernandez's claims occurred (see Tex. Civ. Prac. & Rem. Code §§ 15.002(a).

2. The amount in controversy is within the jurisdictional limits of this Court, i.e., \$10,000.00.

### **FACTUAL ALLEGATIONS**

3. At all times relevant to this claim, Hernandez was a “consumer” as that term is defined in the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692a(3), and the Texas Debt Collection Act (“TDCA”), Tex Fin. Code § 392.001(1).
4. At all times relevant to this claim, ERC was both a “debt collector” and a “third-party debt collector” as those terms are defined in the TDCA § 392.001(6) and (7), respectively, and a “debt collector” as that term is defined in the FDCPA § 1692a(6).
5. The FDCPA and TDCA claims in this lawsuit arose from ERC’s attempts to collect a T-Mobile account starting with 9362 (the “alleged debt”) from Hernandez.
6. On or about February 16, 2018, Hernandez disputed the alleged debt with ERC.
7. ERC did not furnish Hernandez with a written response to his dispute of the alleged debt within 30 days of receiving the dispute.
8. ERC continued collection efforts on the debt, even though it received Hernandez’s dispute and even though it declined to verify the validity of the alleged debt.
9. Despite receiving Hernandez’s dispute of the alleged debt, ERC never reported to the credit bureaus that Hernandez had disputed it.
10. Despite receiving and failing to investigate Hernandez’s dispute of the alleged debt, ERC falsely represented to the credit bureaus that Hernandez’ debt was valid.

### **CAUSES OF ACTION**

#### **COUNT I**

**VIOLATION OF THE TEXAS DEBT COLLECTION ACT ("TDCA"),**  
**TEX. FIN. CODE §392 et seq.**

11. Hernandez incorporates the preceding paragraphs as if set forth at length.
12. ERC violated the TDCA §392.202 failing to furnish Hernandez with a written response to his February 16, 2018 dispute within 30 days of receipt, as required by the statute.
13. ERC also violated the TDCA § 392.202 by continuing collection efforts on the alleged debt despite having received Hernandez' dispute, and despite failing to verify the validity of the alleged debt.
14. ERC violated the TDCA § 392.304(a)(19), by falsely representing to the credit bureaus that the alleged debt was not disputed when in fact it was disputed.
15. As a result of ERC's violations of the TDCA § 392.202 and § 392.304(a)(19), Hernandez is entitled to an order directing ERC to permanently cease collection on the alleged debt, pursuant to TDCA §392.403(a)(1); statutory damages of no less than \$100.00, pursuant to the TDCA §392.403(e); actual damages; and attorney fees pursuant to TDCA § 392.403(c).

**COUNT II**

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT,**  
**15. U.S.C. § 1692 et seq.**

16. Hernandez incorporates the preceding paragraphs as if set forth at length.
17. ERC violated the FDCPA § 1692e(8) because ERC did not report the alleged debt's "disputed" status to the credit bureaus despite receiving Hernandez's February 16, 2018 dispute.

18. ERC violated the FDCPA § 1692f because it is an unfair debt collection practice to ignore a consumer's dispute of an alleged debt when a written response is required.
19. ERC violated the FDCPA § 1692g(b) because despite receiving Hernandez's dispute of the debt, ERC continued collection efforts on the debt without providing Hernandez verification of the validity of the alleged debt.
20. As a result of ERC's violations of the FDCPA, Hernandez is entitled to statutory damages of \$1,000.00; actual damages according to proof; and an award of attorney fees and costs, per FDCPA § 1692k(a).

**PRAYER FOR RELIEF**

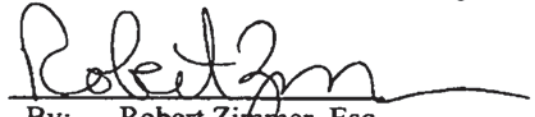
WHEREFORE, Plaintiff José Hernandez prays that this Court:

- a. award Hernandez statutory damages of no less than \$100.00; actual damages according to proof; and attorney fees and costs of court, per the TDCA §392.403;
- b. enter an order enjoining ERC from engaging in any further collection activities on this alleged debt as to Hernandez, the order being authorized by the TDCA § 392.403;
- c. award Hernandez \$1,000.00 in statutory damages; actual damages according to proof; and attorney fees and costs of court, per the FDPCA § 1692k(a).
- d. award Hernandez any other relief to which this Court may find him entitled in law or in equity.

Respectfully Submitted,

Zimmer & Associates  
707 West Tenth Street  
Austin, Texas 78701  
Telephone: (512) 434-0306  
Facsimile: (310) 943-6954

[signature block follows]

A handwritten signature in black ink, appearing to read "Robert Zimmer", with a long horizontal flourish extending to the right.

By: Robert Zimmer, Esq.  
State Bar No. 24098662  
zimmerlawTX@gmail.com

**ATTORNEY FOR PLAINTIFF,  
JOSÉ HERNANDEZ**



**JUSTICE CIVIL CITATION**

THE STATE OF TEXAS

**TO: ENHANCED RECOVERY CORPORATION, LLC  
THROUGH IT'S REGISTERED AGENT, C T CORPORATION SYSTEM  
1200 SOUTH PINE ISLAND ROAD  
PLANTATION FL 33324**

**Respondent, in the hereinafter styled and numbered cause:**

**You have been sued. You may employ an attorney to help you in defending against this lawsuit. But you are not required to employ an attorney. You or your attorney must file an answer with the court. Your answer is due by the end of the 14<sup>th</sup> day after the day you were served with these papers. If the 14<sup>th</sup> day is a Saturday, Sunday, or legal holiday, your answer is due by the end of the first day following the 14<sup>th</sup> day that is not a Saturday, Sunday, or legal holiday. Do not ignore these papers. If you do not file an answer by the due date, a default judgment may be taken against you. For further information, consult Part V of the Texas Rules of Civil Procedure, which is available online and also at the court listed on this citation.**

YOUR WRITTEN ANSWER SHALL BE FILED AT 4717 Heflin Lane, #107, Austin, Texas 78721.

IF YOU HAVE ANY QUESTIONS, YOU SHOULD CONSULT AN ATTORNEY.

Your cause number **J1-CV-18-000912** was filed in Justice Court, Precinct One, on March 27, 2018, styled

JOSE HERNANDEZ, Petitioner/s vs.  
ENHANCED RECOVERY CORPORATION, LLC, Respondent/s

Issued on the 27th day of March, 2018.



*Jessica Mendez*

Jessica Mendez, Deputy Clerk  
4717 Heflin Lane, #107, Austin, Texas 78721  
Justice of the Peace, Precinct One  
Yvonne M. Williams, Judge

**Petitioner's Attorney**

**Agent**

**Petitioner**

ZIMMER & ASSOCIATES  
707 WEST TENTH  
STREET  
AUSTIN, TX 78701

JOSE HERNANDEZ  
707 WEST TENTH STREET  
AUSTIN, TX 78701

Cause number is **J1-CV-18-000912**

Case styled: JOSE HERNANDEZ, Petitioner/s vs.  
ENHANCED RECOVERY CORPORATION, LLC, Respondent/s

----- OFFICER'S RETURN -----

Came to the hand on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M.  
Executed at \_\_\_\_\_ within County of Travis at \_\_\_\_\_  
o'clock \_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, by  
delivering to the within named \_\_\_\_\_

\_\_\_\_\_

a true copy of this citation together with the accompanying copy of the petition have first  
attached such copy of such petition to such copy of citation and endorsed on such copy of  
citation the date of delivery.

To certify which witness my hand officially:

\_\_\_\_\_  
Constable, Precinct One of Travis County, Texas  
By Deputy \_\_\_\_\_



## JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

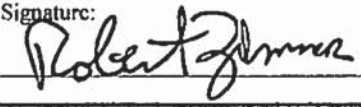
CAUSE NUMBER (FOR CLERK USE ONLY):

JCM 8000912

STYLED José Hernandez vs. Enhanced Recovery Corporation, LLC

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

<b>1. Contact information for person completing case information sheet:</b>		<b>2. Names of parties in case:</b>
Name: Robert Zimmer, Esq.	Telephone: 512-434-0306	Plaintiff(s): José Hernandez
Address: 707 West Tenth Street	Fax: 310-943-6954	Defendant(s): Enhanced Recovery Corporation, LLC
City/State/Zip: Austin, TX 78701	State Bar No: 24098662	
Email: zimmerlawTX@gmail.com		
Signature: 		[Attach additional page as necessary to list all parties]
<b>3. Indicate case type, or identify the most important issue in the case (select only 1):</b>		
<input type="checkbox"/> <b>Debt Claim:</b> A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	<input type="checkbox"/> <b>Eviction:</b> An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	
<input type="checkbox"/> <b>Repair and Remedy:</b> A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	<input checked="" type="checkbox"/> <b>Small Claims:</b> A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	

## **Rules of Attire and Conduct for JP 1 Courtroom**

**ALL PERSONS** present in the Courtroom shall be neatly dressed in a manner that shows dignity and respect for the Court.

### **1. Unacceptable attire includes:**

- Shorts
- Baggy pants
- Oversize coats or jackets
- Flip flop style shoes
- Hats
- Cropped shirts
- Muscle shirts
- Clothing indicating gang affiliation
- Clothing with pictures of: offensive, vulgar, racist, sexist, obscene, suggestive words, slogans, depictions or grotesque creatures
- Provocative clothing designed to provoke emotion or disrupt or distract

### **2. Courtroom Conduct**

Conduct in the "Courtroom" also includes the reception/foyer area, jury room and/or any office space assigned to the Justice Court.

1. ALL WEAPONS are PROHIBITED in the Courtroom and this building EXCEPT for LAW ENFORCEMENT PERSONNEL.
2. Be on time.
3. Absolutely no cell phones, laptops or tablets on in the courtroom. Pagers are allowed on silent mode.
4. Adhere to the bailiff instructions.
5. Do not approach the Judge's bench without permission.
6. Address the court as "Judge" or "Your Honor." Do not argue with the court.
7. Address opposing parties, counsel, witnesses and court officers as "Mr.", "Mrs.", "Miss", "Dr.", etc. Do not use first names, except with children 14 years of age and younger.
8. Racist, sexist, obscene, or profane language is prohibited unless it is pertinent to a case, and is elicited and quoted from facts in the case.
9. Do not chew gum in the Courtroom or bring drinks or food items into the Courtroom.
10. Do not enter or depart the Courtroom excessively and do not slam the doors.
11. Do nothing to disturb or distract the court, counsels, witnesses or other court personnel.
12. All property in the Courtroom and reception area must be treated with respect. No writing on any papers posted or furniture.
13. No recording devices are allowed without judicial approval.
14. Respect court personnel at all times.

**PRO SE parties** (individuals representing themselves without an attorney) should be prepared to present their cases in a proper and orderly manner. It is not the court's duty to represent you nor instruct you on how to prove your case. You may contact Texas Legal Aid or the Travis County Law Library for legal assistance.



## **Reglas de Vestir y Conducta para el Tribunal J.P 1**

**TODAS LAS PERSONAS** presentes en el Tribunal será vestido (a) ordenadamente en una manera que muestra dignidad y respeto para el Tribunal.

### **1. Vestuario inaceptable incluye:**

- Pantalones cortos
- Pantalones flojos
- Abrigo demasiado grandes (chaquetas)
- Chancletas de playa, gorros
- Camisas cortas
- Camisas de músculo
- La ropa que indica la pandilla afiliación o otra ropa con ofensiva, vulgar, el racista, el sexista palabras, el lema, las descripciones, o las imágenes obscenas y sugestivas, inclusive criaturas grotescas.
- La ropa provocativa diseñada, estilizó, o desgastado provocar emoción o interrumpir o distraer no será permitido.

### **2. Conducta en el Tribunal**

Conducta en el la sala del "Tribunal" también incluye el área de recepción/vestíbulo, habitación de jurado y/o cualquier espacio para oficinas asignaron al Tribunal de la Justicia.

1. Cualquier ARMAS SON PROHIBIDAS en el Tribunal y este edificio menos el PERSONAL de APLICACION DE LA LEY.
2. Sea puntual.
3. Absolutamente no teléfonos celulares, computadora portátiles, o tabletas en la sala de audiencias. Bíper son permitidos en el modo silencioso.
4. Obedezca a las instrucciones de alguacil.
5. Dirija el Tribunal como "Juez" o "Su Honor" o "Su Señoría". No discuta con el Tribunal.
6. Dirija los partidos oponentes, el consejo, oficiales de testigos y tribunal como "Sr", la "Sra.", "Señorita", el "Dr.", etc. No utilice primeros nombres, menos con niños 14 años de la edad y más joven.
7. No se acerque al banco del Juez sin permiso.
8. El racista, el sexista, obsceno, o el lenguaje vulgar, profano es prohibido a menos que sea pertinente a un caso, y sea sacado y es citado de hechos en el caso.
9. No masque goma en el Tribunal ni traiga bebidas ni alimento artículos en la Sala.
10. No entre ni salga del Tribunal excesivamente y no azote las puertas.
11. No haga nada perturbar o distraer el Tribunal, los consejos, los testigos u otro personal del Tribunal.
12. Toda la propiedad en el Tribunal y la recepción debe ser tratada con respeto. No escriba ni haga rayones en cualquier papel, anunció, "o" muebles.
13. Ningún aparato de grabación son permitidos sin aprobación judicial.
14. Siempre debe respetar al personal del Tribunal.

**Partes de la prosa:** (individuos representando a sí mismo sin un abogado) debe ser preparado para presentar sus casos en una manera apropiada y ordenada. No es el deber del Tribunal de representarle ni instruirle en cómo demostrar su caso.

NO. J1-CV-18-000912

JOSÉ HERNANDEZ,  
Plaintiff

VS.

ENHANCED RECOVERY  
CORPORATION, LLC,  
Defendant

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IN THE JUSTICE COURT

PRECINCT NO. 1

TRAVIS COUNTY, TEXAS

**AGREED MOTION FOR EXTENSION OF TIME TO FILE DEFENDANT'S ORIGINAL  
ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

By agreement between them, the Parties respectfully move that the Court allow the  
deadline for Defendant's Original Answer to be extended until April 30, 2018.

Respectfully Submitted,

Zimmer & Associates  
707 West Tenth Street  
Austin, Texas 78701  
Telephone: (512) 434-0306  
Facsimile: (310) 943-6954

/s/ Robert Zimmer  
Robert Zimmer, Esq.  
State Bar No. 24098662  
zimmerlawTX@gmail.com

**ATTORNEY FOR PLAINTIFF,  
JOSÉ HERNANDEZ**

**CERTIFICATE OF SERVICE**

I, the undersigned attorney, hereby certify that on April 10, 2018, a true and correct copy of the foregoing Motion and Proposed Order has been served on the Court and all parties, pursuant to the Texas Rules of Civil Procedure.

Respectfully submitted,

/s/ Robert Zimmer

Robert Zimmer, Esq.  
State Bar No. 24098662

Zimmer & Associates  
707 West 10<sup>th</sup> Street.  
Austin, TX 78701  
Phone: (512) 434-0306  
Fax: (310) 943-6954  
zimmerlawTX@gmail.com

**ATTORNEY FOR PLAINTIFF**



NO. J1-CV-18-000912

JOSÉ HERNANDEZ,  
Plaintiff

VS.

ENHANCED RECOVERY  
CORPORATION, LLC,  
Defendant

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IN THE JUSTICE COURT

PRECINCT NO. 1

TRAVIS COUNTY, TEXAS

**ORDER GRANTING AGREED MOTION FOR EXTENSION OF TIME TO FILE  
DEFENDANT'S ORIGINAL ANSWER**

On \_\_\_\_\_, 2018, the Court considered the Parties' Agreed Motion seeking an extension of time for Defendant to file its Original Answer.

The Court finds that the Motion should be GRANTED, and Defendant's Original Answer shall be due and filed on or before April 30, 2018.

SO ORDERED and SIGNED on \_\_\_\_\_, 2018.

\_\_\_\_\_  
Judge Presiding  
Travis County JP #1